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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,593	11/24/2003	Albert A. Simone	SPADIX 3.0-003(DIV)	5032
7590 EZRA SUTTON, PA PLAZA 9 900 ROUTE 9 WOODBRIDGE, NJ 07095		02/08/2007	EXAMINER FLETCHER III, WILLIAM P	
			ART UNIT	PAPER NUMBER 1762
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE		DELIVERY MODE	
3 MONTHS	02/08/2007		PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/720,593	SIMONE, ALBERT A.
	<b>Examiner</b>	<b>Art Unit</b>
	William P. Fletcher III	1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 April 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 36-38 and 41 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 36-38 and 41 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 24 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The compliant preliminary amendment, filed April 21, 2005, is noted.
2. Claims 36-38 and 41 are now pending.
3. The text of cancelled claims should be omitted in future claims listings.

### ***Information Disclosure Statement***

4. No IDS has been filed in this application to-date.

### ***Drawings***

5. The drawings were received on November 24, 2003. These drawings are formal.

### ***Specification***

6. The application is objected to because of alterations which have not been initialed and/or dated as is required by 37 CFR 1.52(c). A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by application number and filing date is required. See page 13, line 3 of the instant specification.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

A. The term "smoothed" in claim 37 is a relative term which renders the claim indefinite. The term "smoothed" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear how rough or "un-smooth" the surface may be and still be considered "smoothed" within the context of the invention. No criteria by which one may ascertain the suitability of smoothness is disclosed in the instant specification.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

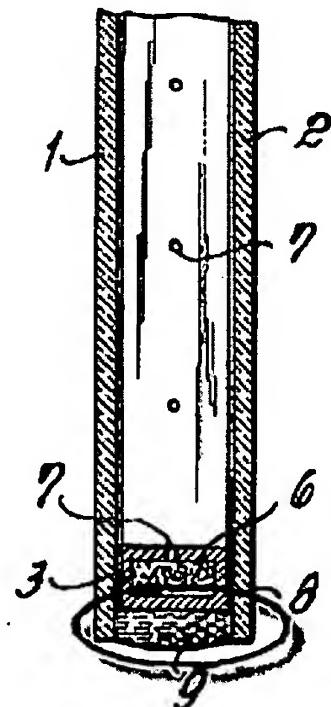
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 36-38 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Jarchow et al. (US 3,947,311 A).**

A. This reference teaches a process for forming an insulated glass assembly by extruding sealant into the space defined by two glass panes and a spacer element. While not explicitly stated, it is the Examiner's position that the resultant space is U-shaped (circled below):

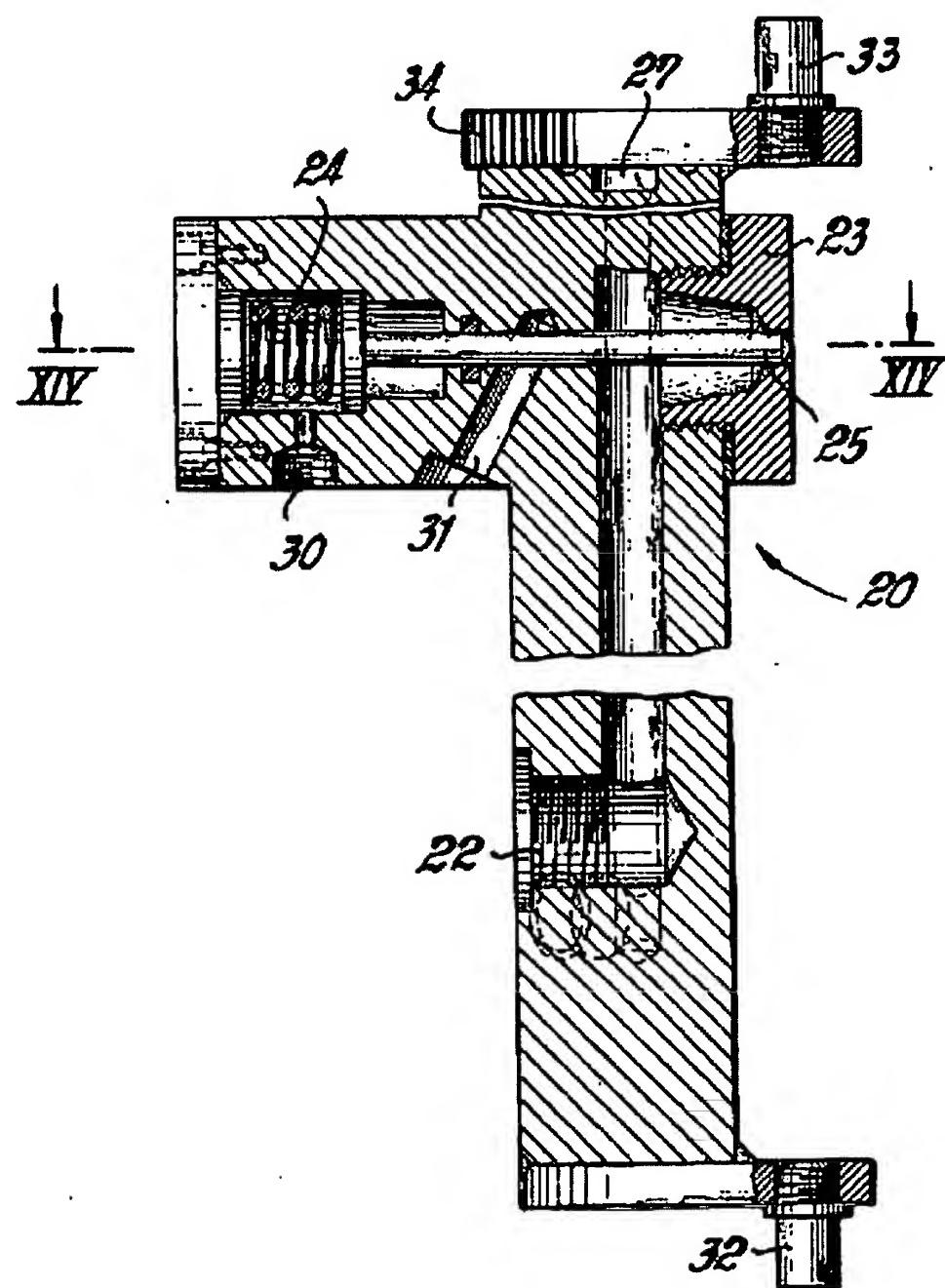
***FIG.1***



Hot-melt sealant material is extruded from nozzles having a structure illustrated in Figs.

13 and 14:

**FIG. 13**



Material enters the nozzle structure via opening 22, flows through recessed space running vertically up (anticipating **claim 41**) to nozzle outlet channel contained in 23, where it is held until valve 25 is opened and the material exits the nozzle outlet opening. The nozzles are moved along all sides of the insulated glass assembly as illustrated in Figs. 7-12.

B. **Claim 36** requires only that the nozzle(s) be aligned in a non-contact manner, which is clearly illustrated in Figs. 11 and 12, where the nozzles are oriented to apply material, but are not in contact with the glass.

C. With respect to the limitation concerning pressure recited in **claims 36**, it is the Examiner's position that the material is necessarily under pressure such that it is expelled from the nozzle into the U-shaped space. As such, this limitation is anticipated by this reference.

D. With respect to the smoothness recited in **claim 37**, insofar as the deposited sealant is suitable for further processing and/or use, it is necessarily "smoothed."

E. With respect to **claim 38**, Jarchow illustrates, in Figs. 7-12, coating utilizing two nozzles in which there is, at some point, simultaneous movement of the nozzles on opposing sides.

11. **Claim 38 is rejected under 35 U.S.C. 102(b) as being anticipated by Lafond (US 5,650,029 A).**

A. This reference anticipates applicant's claimed method of application [Figs. and 1:44-56].

B. Although not explicitly stated, it is the Examiner's position that the channel defined by the glass panes and the spacer forms a U-shaped channel, as claimed.

**Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 3,759,771 A; US 3,852,149 A; US 4,145,237 A; are representative of the state of the art.
13. The prompt development of clear issues in the prosecution history requires that applicant's reply to this Office action be fully responsive (MPEP § 714.02). When filing an amendment, applicant should specifically point out the support for any amendment made to the disclosure, including new or amended claims (MPEP §§ 714.02 & 2163). A fully responsive reply to this Office action, if it includes new or amended claims, must therefore include an explicit citation (i.e., page number and line number) of that/those portion(s) of the original disclosure which applicant contends support(s) the new or amended limitation(s).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Monday through Friday, 0900h-1700h.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



William Phillip Fletcher III  
Primary Examiner  
Art Unit 1762

January 26, 2007